

Court of Appeals, State of Michigan

ORDER

In re Estate of Sharon Elizabeth Arlington

Docket No. 295814

LC No. 06-054749-DE

Peter D. O'Connell
Presiding Judge

Kathleen Jansen

Christopher M. Murray
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED. The final order was entered in this case on January 2, 2009. The motion for reconsideration to which appellant seeks to link the claim of appeal was untimely filed 26 days later on January 28, 2009. On December 10, 2009, the trial court entered an order that purported to treat the January 28 motion as timely filed. However, appellant did not request the extended filing date during the initial 21-day period from January 2 to January 23, 2009, as is required by MCR 7.204(A)(1)(b). Under that rule, a motion for reconsideration filed more than 21 days after the final order may only serve as the basis for a timely claim of appeal if it is filed "within further time the trial court has allowed for good cause during that 21-day period." Although MCR 2.108(E) allows extensions that are requested after expiration of the original period if the failure to act was the result of excusable neglect, MCR 7.208(C)(1) prevents such extension if the grant of further time would "extend the time for filing a claim of appeal." MCR 2.108(E) acknowledges this limitation when it states: "[I]f a rule governing a particular act limits the authority to extend the time, those limitations must be observed." The January 26, 2010, order that dismissed this case for lack of jurisdiction was properly entered.

Pursuant to MCR 7.216(C), the Court finds that appellant's motion for reconsideration is vexatious because comments contained therein are grossly lacking in the requirements of propriety. As a disciplinary measure, the Court ORDERS that appellant's counsel pay a fine of \$250.00 to the Clerk of this Court within 21 days of the Clerk's certification of this order. If appellant's counsel C. Michael Villar, fails to pay the costs in full by the specified date, he is immediately barred from any further filings or appearances in this Court until further order of this Court. Late payment of the amount due will not automatically lift the bar. The Chief Clerk shall refer this matter to the Attorney Grievance Commission for further review pursuant to MCR 9.112(B).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 16 2010

Date

Sandra Schultz Mengel
Chief Clerk